IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

MISC.CIVIL APPLICATION No 1173 of 2002

For Approval and Signature:

Hon'ble MR.JUSTICE P.B.MAJMUDAR

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1. Whether Reporters of Local Papers may be allowed to see the judgment? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

GUJARAT STATE ROAD TRANSPORT CORPORATION

Versus

KANAK A MEHTA

Appearance:

MS ROOPAL R PATEL for the Petitioner.

MR MANOJ N POPAT for the Respondent.

CORAM : MR.JUSTICE P.B.MAJMUDAR

Date of decision: 26/12/2002

ORAL JUDGEMENT

The petitioner-S.T. Corporation has filed this Miscellaneous Civil Application under Section 24 of the Civil Procedure Code for transferring Special Civil Suit No.25 of 1990, pending in the Court of Civil Judge (S.D.), Kutch at Bhuj, to the City Civil Court at

Ahmedabad. The present petitioner herein filed a suit, being Civil Suit No.2058 of 1989, against the opponent herein, which is pending in the City Civil Court at Ahmedabad. The case of the plaintiff in the said suit is that the opponent was awarded a contract for the purpose of construction of permanent Depot at Bhachau, District Bhuj, and that construction was to be carried out in compliance with the terms and conditions of the tender and that the time was the essence of the contract and that the work was to be completed within 15 months. It is also the case of the plaintiff that the opponent failed to carry out the construction within the stipulated time, and, in that view of the matter, the petitioner has suffered a loss of Rs.12,61,693.06. The aforesaid suit is filed for recovering the said amount. The opponent thereafter, subsequent to the aforesaid suit, has also filed a suit, being Special Civil Suit No.25 of 1990, before the Civil Court (S.D.), Kutch at Bhuj, for recovery of Rs.11,66,167.03 towards damages. The said suit is filed against the present petitioner-Corporation. The said suit also arises out of the same contract entered into between the parties. By this application, the applicant has prayed that the aforesaid Special Civil Suit No.25 of 1990, which is pending in the Court of civil Judge (S.D.), Kutch at Bhuj, may be transferred to the City Civil Court, Ahmedabad, so that both the suits can be heard together. It is stated that the suit filed by the petitioner-Corporation is earlier in point of time. It is submitted that the documentary evidence is common in both the suits, as both the suits arise out of the same contract.

I have heard both the sides and considering the facts and circumstances of the case, in my view, Special Civil Suit No.25 of 1990, which is pending in the Court of Civil Judge (S.D.), Kutch at Bhuj, is required to be transferred to the City Civil Court, Ahmedabad, so that both the suits can be heard together as they arise out of the same contract between the parties. Accordingly, this Miscellaneous Civil Application is allowed. Special Civil Suit No.25 of 1990, pending in the Court of Civil Judge (S.D.), Bhuj, stands transferred to the City Civil Court, at Ahmedabad, and after such transfer, the same is ordered to be heard with Civil Suit No.2058 of 1989, which is also pending before the City Civil Court, at Ahmedabad. Rule is accordingly made absolute with no order as to costs.

(P.B. Majmudar, J.)

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(apj)